Remarks

The Examiner's Office Action mailed November 2, 2004 and the references cited therein have been reviewed. In this response, Applicants' claims 82-88 have been canceled. The claims now pending in this application are claims 1-20, 27-42, and 92-103. Applicants request reexamination and reconsideration of the application in view of these amendments and further in view of the following remarks.

As shown hereinbelow, Applicants' claims call for numerous features which are neither disclosed nor suggested by the prior art cited in the Office Action mailed November 2, 2004. For example, Applicants' claims 1-20 and 92-103 call for a method of treating food items comprising the step of pressing the food items using a pliable material which conforms to and at least partially surrounds the food items during the step of pressing. Claim 2 states that the food items are pressed between a first layer of pliable material and a second layer of pliable material and claim 3 states that the surfaces of the first and second layers of pliable material conform to and at least partially surround the food items. Applicants' claims 27-42 call for a method of treating food items comprising the step of pressing the food items between a first layer of a pliable material having a first surface and a second layer of pliable material having a second surface, wherein the first and second surfaces conform to and at least partially surround the food items.

In addition, Applicants' claims 5 and 30 state that the first layer of pliable material is a covering for a plunger and the second layer covers the interior of a cavity wherein the plunger is received. Claims 6 and 31 state that the first and second layers of pliable material are a pair of continuous belts between which the food items are pressed. Claim 4 states that the first and second surfaces completely surround the food items in the step of pressing. Claims 10 and 93 state that the

pressing step comprises a series of at least two applications of pressure to the food items using the pliable material. Claims 17, 39, and 98 state that the process further includes the step, following pressing, of infusing a treatment liquid into the food items by impacting the food items with flexible fingers as the food items are conveyed by a submerged conveyor through the treatment liquid. Claim 33 states that each of the first and second layers of pliable material has a thickness of at least 1/2".

In the Office Action mailed November 2, 2004, Applicants' pending claims 1-3, 6-7 and 10 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,467,497, issued to Peterson, et al. Claim 1 was also rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,176,071, issued to Klaassen. Claims 1-3, 6-7, 9-11, 27, 29, 31-34, 92-94, 101 and 103 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,082,678, issued to Margolis, in view of Peterson, et al. Claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over Margolis in view of Peterson, et al. and further in view of U.S. Patent No. 3,663,233, issued to Keszler. Claims 5 and 30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Margolis in view of Peterson, et al. and Keszler and further in view of U.S. Patent No. 4,345,514, issued to Morley. Claims 14, 18, 37, 40, 97, and 99 were rejected under 35 U.S.C. 103(a) as being unpatentable over Margolis in view Peterson, et al. and further in view of U.S. Patent No. 4,657,771, issued to Gould. Claims 19-20, 41-42, and 100 were rejected under 35 U.S.C. 103(a) as being unpatentable over Margolis in view of Peterson, et al. and Gould and further in view of U.S. Patent No. 5,564,332, issued to Ludwig. Claims 14-16 and 37-38 were rejected under 35 U.S.C. 103(a) as being unpatentable over Margolis in view of Peterson, et al. and further in view of U.S. Patent No. 3,347,679, issued to Nordin. Claims 17, 39, and 98 were rejected under 35 U.S.C. 103(a)

as being unpatentable over Margolis in view of Peterson, et al. and Nordin, and further in view of GB 975356.

The primary reference relied upon by the Examiner in rejecting Applicants' claims is U.S. Patent No. 4, 467,497, issued to Peterson, et al. The Examiner contends that "Peterson et al. teach a method of treating foods by pressing meat between two pliable surfaces (Figure 1, #6 & 12; column 2, line 35) which conform and at least partially surround the meat. . . ." (Office Action page 2, ¶ 3.)

Applicants respectfully submit that the Examiner's statement regarding the disclosure of Peterson, et al. is incorrect. Peterson, et al. disclose a method and device for producing thin slices of frozen meat wherein thick chunks of frozen meat (at between -5°C and -2°C) must be "mangled" and mashed between a converging pair of conveyor belts. It is stated in Col. 2 of the patent that the conveyor belts may be made of any material suitable for this purpose which can be easily sterilized. Examples include rubber or plastic. However, it is clear that, in contrast to the requirements of Applicants' claims, the belts of the Peterson device are not, and cannot be, effective for conforming to and at least partially surrounding frozen food items while applying a pressing force thereto. Rather, to effectively "mangle" and mash the thick chunks of frozen meat into thin slices of consistent shape, the belts of the Peterson, et al. device must resist deformation when contacting the product. Applicants note that:

a. It is stated in Col. 2 of the Peterson, et al. patent that the belts are preferably reinforced with textile or wire cloth.

b. Rather than being capable of conforming to and at least partially surrounding the shape of a food items while applying pressure thereto, it is actually critical for the method and device of the Peterson, et al. patent that the belts be effective for "mangling" and mashing the thick cuts (3-4 cm.)of solid frozen meat to form thin

slices having thicknesses of as little as 5-8 mm. (See, e.g., Abstract and Col. 2:47-56.)

c. To meet this mangling and mashing requirement, Peterson, et al. teach that, rather than conforming to and surrounding the food items, the diverging belts of the Peterson, et al. device must be effective for providing and consistently maintaining a very narrow (2-3 mm.) rectangular nip/slot between the outlet ends of the converging belts. (See, e.g., Abstract and Col. 3: 3-13.)

d. Peterson, et al. also teach that the converging belts should have contacting surfaces of a type which readily allow the frozen meat chunks to be mashed and expanded outwardly as they are mangled between the belts. (See, Col. 3: 28-31.)

In addition, the Examiner further contends that claim 1 is unpatentable over U.S. Patent No. 5,176,071 to Klaassen on the grounds that: "Klaassen teaches a method of treating foods by pressing meat with a pliable surface (Figure. 1, #5; column 3, line 9) which conforms and at least partially surrounds the meat . . . ." (Office Action pages 2-3, ¶ 4) Applicants respectfully submit, however, that the Examiner's reliance on Klaassen is also incorrect.

Klaassen discloses a device for injecting a slab of meat with a brine solution wherein a roller is used to mash the slab of meat into firm, uniform contact with an elongate lateral row of injection nozzles. Klaassen states that an elastic covering can be provided on the roller. However, it is clear that neither the roller nor the elastic covering is, or can be, effective for conforming to and at least partially surrounding food items while applying a pressing force thereto. Rather, the roller must be effective for mashing the slab of meat to a predetermined uniform thickness across the entire width of the system conveyor. (See, Abstract; Col. 1: 29-35.) To accomplish this result, the pressure roller must form and maintain a consistent, uniform, narrow nip across the entire width of the Klaassen device. (See, e.g., Abstract, Col. 1: 29-31, Col. 1: 55-58, Col. 3: 9-15, Col. 3: 49-56.)

Applicants further respectfully submit that, in rejecting all of Applicants' claims under 35 U.S.C. 103(a), the Examiner relies on an improper combination of U.S. Patent No. 5,082,678, issued

to Margolis with the disclosure of Peterson, et al. The Margolis patent bears no relation to the disclosure of Peterson, et al. and clearly teaches away from such combination. In complete contrast to the invention of Peterson, et al. wherein thick chunks of frozen meat at between -5° and -2°C are mangled and mashed between two converging belts to form very thin flat slices, Margolis discloses only a process for removing fat from ground meat patties wherein the meat patties must be heated on both sides to an internal temperature sufficient (45°C) to cause the fat within the ground meat patties to liquify. In Example 1 of the Margolis patent, the ground meat patties are placed on an electrical griddle set at 163°C.

In addition, Applicants respectfully submit that the Examiner's addition of Keszler patent No. 3,663,233 to the Margolis/Peterson, et al. combination in rejecting claim 4 and the addition of Morley patent No. 4,345,514 in rejecting claims 5 and 30 and are also improper. Like Margolis, Keszler and Morley each teach away from any combination with the disclosure of Peterson, et al. Keszler teaches only a method of tenderizing, curing, and cooking a meat product wherein a piece of unfrozen meat at 35-40°F must be stuffed into a rigid, unpliable mold at a pressure sufficient to impart a permanent, thick block shape to the product. The cited references provide absolutely no teaching or suggestion that the closed mold used by Keszler to form meat thick chunks can or should be combined in any way with the continuous device of Peterson, et al. to mangle frozen meat chunks into thin slices. Morley discloses only a continuous rotary hamburger grill which includes an angled pressure plate for mashing balls or scoops of ground meat into patties as it presses them against a hot, rotating grill plate. The device includes Teflon® liners which contact the patties, but it is clear that all of the pressing of the balls or scoops into patties is done by the rigid pressure plate.

Finally, Applicants respectfully submit that GB 957356 cannot be properly combined with the disclosures of Peterson, et al., Margolis, and Nordin Patent No. 3,347,679 in rejecting Applicants' claims 17, 39, and 98. The Examiner states that: "GB 957356 teaches a method of treating meat by impacting it with flexible fingers (Figure. 4, #5)." However, as noted above, Applicants' claims 17, 39, and 98 do not merely state that the food items are impacted with flexible fingers but require that the food items be impacted with the flexible fingers while the food items are actually being conveyed by a submerged conveyor through a body of treatment liquid. In contrast, Fig. 2 of GB 957356 shows that the cords 5 employed in the GB 957356 device are little more than strings which have essentially no inherent stiffness and clearly would not operate as intended in the device of GB 957356 if submerged in water.

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Therefore, Applicants respectfully submit that the references cited by the Examiner in the Office Action mailed November 2, 2004 neither disclose nor suggest any of the above-identified features of Applicants' claims 1-20, 27-42, and 92-103 and cannot be properly combined in the manner relied upon. Applicants therefore request that all of the Examiner's rejections be withdrawn and that the Examiner allow all of claims 1-20, 27-42, and 92-103.

This paper is intended to constitute a complete response to the Examiner's Office Action mailed November 2, 2004.

Respectfully submitted,

2/24/05

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